1: Honigmann E-5 (1943-1945) 1949 ND12 Nahane ND12

603 provincial or Mounted Policeman acts as prosecutor and witness. In no case observed was
692 an accused Indian put under oath when he appeared before the court. The following examples of trials, abstracted from field notes, illustrate judicial process in Lower Post.

695 7/11/45. When Louis was called before the bar, he leaned forward comfortably on the table
689 behind which the magistrate was seated. The latter told the accused to stand up. Louis obeyed
656 but in a moment again leaned forward listening to the charge being read. Again the magistrate had to command the accused to stand erectly. Louis pleaded guilty to having been intoxicated and was fined fifteen dollars and costs. The arresting constable then reminded the magistrate of an additional penalty obtaining if the accused, an Indian, refused to divulge the source of the liquor. This section of the statutes was read to Louis, who was then asked where he had obtained the beverage. Louis affirmed that he had found it in the bush. Sarcastic questions expressing the magistrate's disbelief of this reply could not shake Louis from his story. The constable then spoke up, saying that the accused was probably telling the truth and that there was no reason to doubt his word. Further sentence was thereupon suspended.

8/7/45. Three Indians and one white man were arraigned on charges of intoxication. Peter Lang was called first. This was his second offense under the liquor statutes. After the charge had been read he was asked how he pleaded. When Peter failed to understand the question, he was asked directly whether or not he had been drinking liquor on the night in question. Peter denied drinking liquor, adding that he had drunk only a bottle of beer. Manifestly annoyed, the magistrate tried to explain that beer and liquor were both alcoholic beverages and therefore denied to Indians. "You evidently think you're allowed to drink beer but not whiskey." Peter again denied drinking whiskey. The magistrate insisted that if Peter admitted drinking beer he had also been drinking liquor. Misunderstanding, Peter tried to maintain his innocence from the charge by interjecting the common term for an untruth—"bullshit." The magistrate at once sharply reprimanded the Indian, saying: "Don't you dare use language like that in court." Peter did not grasp the rebuke and answered: "That's what I say, that bullshit." The magistrate looked hopeless but let the word pass. He did, however, appeal for an interpreter who could speak the language of the accused. None was forthcoming. It was finally established that Peter Lang realized his offense. His plea was recorded and he was fined sixty dollars and costs, with the alternative of two months in jail. He accepted the fine and was then asked where he had secured the beer. Refusal to answer, he was warned, could lead to an additional fine. Peter said he had found the beverage in the bush. This irritated the magistrate, who was apparently inclined not to believe the answer, although he finally accepted it. Peter was warned that a third offense would certainly earn him imprisonment with hard labor.

The second defendant was Nick Lang who pleaded not guilty to the charge of intoxication. Two witnesses testified under oath to having seen Nick manifest signs of intoxication. The first witness was the Mounted Policeman, who had accompanied the provincial official on the night of the arrest, while the second was the local constable himself. Both affirmed having seen the defendant walking "unsteadily" and "staggering." Nick declined the opportunity to question the witnesses, but said he had been getting water with a lame foot when he had encountered the police. The magistrate found him guilty and imposed fine of fifteen dollars and costs, with the alternative of spending a month in jail. Nick chose the fine. Under further questioning he too insisted that he had found the liquor in the bush. This explanation angered the magistrate, who warned that he would be very severe if he ever returned to Lower Post and again heard that story.

The third defendant was a young Bear Lake (Sekani) Indian man, who was temporarily

1: Honigmann, E-5 (1943-1945) 1949 ND12 Nahanne ND12

stopping in Lower Post following employment with a government survey party. While the legally worded charge was being read the accused unthinkingly turned his back on the magistrate. For this he was sharply rebuked. Pleading guilty, the youth was questioned concerning the source of the liquor. He affirmed that soldiers had given him a bottle of rum. The magistrate sarcastically remarked that such generosity to Indians was difficult to understand, since most soldiers were themselves short of liquor. He then imposed a fine of fifteen dollars and costs, and adjourned court while the defendant, in company with the provincial policeman, went to friends trying to borrow the money. The boy came to the ethnographer's cabin and there found Daisy Joe, an Indian woman, whose common law husband was a white man. The policeman had recently caught this woman in the company of her husband carrying a gunny sack of beer. Now, suffering from severe toothache, she was anxiously waiting to see if her offense would also come to trial. When the boy asked Daisy (a non-relative) for money, the policeman became suspicious and remarked: "Maybe that's where you bought the liquor?" This accusation was firmly denied by both parties as well as by Daisy's white husband.

Trials are conducted so as to be punitive as well as judicial. Several times we heard the magistrate making an attempt to frighten the Indians from drinking. There is no question but that the people are afraid of court proceedings, although they are never sufficiently intimidated to reveal the true sources from which liquor is secured. Thereby they protect their access to those sources. Most of the time court proceedings are conducted on a level of formality and a plain of experience quite foreign to the Indians. The efforts of the magistrate to command respect and proper courtroom demeanor are both pitiful and amusing.

Intergroup Relations

In this section, cooperative action and conduct within the Kaska nation as a whole is considered. In the section immediately following discussion will take up relations between Kaska and non-Kaska individuals.

It is in keeping with the atomistic character of Kaska society that cooperation within a tribe or within the nation as a whole should be unknown. No mechanisms for bringing about the unified functioning of these groups are available and group sentiment is transient and ephemeral. Under such conditions it is not surprising that the development of social policies has scarcely gained even a foothold in the group. About thirty-five years ago, under the direction of a white man, James Teit, the Kaska were involved in an attempt to further group interests by supporting a social ideology.[6] The movement was directed toward the preservation of the Indians' right to trap anywhere in the country without being confined to registered trap lines, which were at that time being introduced in British Columbia. As the first task of implementing this social policy, the Indians contributed money which was to be used to institute legal proceedings. Teit, however, is alleged to have absconded with the funds collected. At any rate, the policy met with no success. Even in this group movement, as reported by Old Man, we can detect the spirit of individualistic opportunism at work. "We in trapping Yukon side. White man tell us, 'Yukon trappers put up five dollars. B. C. trappers put up one hundred dollars.' They do that. Old Chief put up five hundred

[6] We have adopted this term from Kardiner who uses it to refer to "a system of ideas which seeks implementation by action to gain or preserve certain interests," Kardiner, *The Psychological Frontiers of Society* (1945), 119.